

AN

14

# ENQUIRY

After further satisfaction concerning obeying a change of Government beleev'd to be unlawfull.

Tendred to the *Presbyterian* Proposer, by way of  
Reply to his Book Intituled; *The lawfulnessse of*  
*obeying the present Government.*  
By a dissenting Brother



ROM. 14. 23.

*He that doubteth, is damned if he eat, because not of faith:  
for whatsoever is not faith, is sime.*

L O N D O N,

Printed for G. T. Anno Dom. 1 6 4 9.

# ENQUIRY

After further inspection con-

firmly believe that the

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in the same place

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1702:01



To the Author of a Book intit,  
tuled, *The lawfulness of obeying the*  
*present GOVERNMENT*

Honoured Sir,



AVING seen your treatise, and being in the number of those to whom your discourse is directed, I do in my own and others behalfs returne you thanks, for your offer and endeavour to hold forth somewhat for the satisfaction of those who desire to walke by rule, and cannot comply with alterations, great, sudden, and of publick concernment upon such grounds, as peradventure take with some others.

In the argument you expresse your self thus, a declaration hath been lately published, wherein the grounds are exprest of setting the present government, with which if any be not so far satisfied as to think that settlement lawfull, yet even to such is this discourse directed, which proposeth proofs, that though the change of a government were beleevued not to be lawfull, yet it may lawfully be obeyed.

I hope you wil not take offence, if I (having many times read over, and as I was able weighed your treatise) do acknowledge, that I am not yet satisfied in that which is made the busines of

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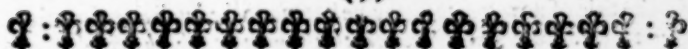
your Look. I suppose also that I shall not in this writing give offence to any of different Judgement, and I am apt to beleieve that those that are true to the principles of Liberty of Conscience, wil not take offence at me for proposing in a peaceable way the grounds of my scruples, to such a casuist, as if the worke it self be feasible, may be a probable instrument of clearing that case wherein he ha: appeared, and therein both satisfy the spirits of many that truly fear the Lord, and be serviceable to the establisbing of the new sabrick, in a more honourable and lasting way, than the greatest penalizes can encompassse. For my self I shall only adde thus much, that I am perswaded; if you knew, how much unbeleef lodges in my heart, and how great inconveniencies I must wrestle with, in case my scruples be not satisfied; you would not much doubt, but that I would be as willing to receive satisfaction, as you have exprest your selfe to give it. Thus leaving the following lines to your consideration I rest,

S J R,

Yours obliged and  
to be obliged,



An



## An Enquiry after further satisfaction concerning obeying a change of government beleev'd to be unlawfull.

**T**he Question is this, whether though the change of a Government were beleev'd not to be lawfull, yet it may lawfully be obeyed?

A late Treatise proposeth proofs for the affirmative; which before we come to examine, it will not be amisse to consider some things by way of premise towards the clearing of the point in question.

And here in the first place let it be considered, whence it is, that this or that particular person, comes to be a Subject to this or that particular Government or Governour? and this may be foure wayes.

1. In regard of originall or naturall descent and inferiority. Thus in the first age of the World, *Cain, Abel, Seth*, and the rest of *Adams* Children and their Off-spring, were under the government of *Adam* by naturall right; and this is founded upon the primitive terms of the 5th. Commandement, *Honour thy Father*.

And to this head we may referre the subjection of the younger Brother to the elder as being in ordinary course the Heir of his Fathers government. And thus, with *Chrysostom, Musculus*, and others, I understand that as spoken by God, to *Cain* the elder Brother, concerning *Abel*. *Gen. 4. 7. Vnto thee shall be his desire and thou shalt rule over him*. The like Phrases are used in the 3d. chapter v. 16. concerning the subjection of the Wife to the government of the Husband.

2. In regard of some speciall precept or institution of God. So whensoever God doth expressly assigne a person to government over a Kingdom, the Subjects of that Kingdome are thereupon bound to obey that person. So *David* was taken from feeding of Sheep to be Ruler over *Israell*. *1 Sam. 16. 1. The Lord said unto Samuell, fill thine Horn with Oyle, & go, I will send thee to Jesse the Bethleemite: for I have provided me a King among his Sons*. The like we read concerning *Iesu*, who was in particular appointed by God to be King over *Israell*. These cases are extraordinary, and the ground of obeying in these cases, is, that Sovereignty of God whereby he bestows authority on whom he pleases; exprest by some speciall word, whereby in such ca.

ses the title of government may be known to be by divine donation. Jer. 27 5, 6. *I have made the Earth, th: man and the beast that are upon the ground, by my great power, and by my out-stretched Arm; and have given it unto whom it seemed meet unto me; and now have I given all these Lands into the hand of Nebuchadnezer the King of Babel my servant.*

3. In regard of place. Suppose a man, with his family, goes into some place which hath neither owner nor Inhabitant: he plants and possesses that place, and hath by right of primitive possession, authority to govern in that place; and if afterward any other come to dwell within compass of that Plantation he ought to be subject to the Governour and government of the place; and so ordinarily, whatsoever Kingdome a man comes into; he is during his abode there subject to the authority of the place; and here is the proper roome for that saying, *persona sequitur locum*. And upon this account it is, that the fourth Commandement enjoynes the governour of a Family or City, to see that the Sabbath be not prophaned by the stranger that is within their gates; for whilst he is within their bounds, he is within their jurisdiction; and thus the patriarks by sojourn'g in Egypt, became subjects to Pharaoh.

4. In regard of consent. When those that are free to dispose of themselves or others under a Government or Governour, do by such consent constitute or lay a foundation for Government. Thus was the originall of the Romans under Romulus; & the learned Author of the Treatise, *de jure Magistratum in subditos* informs us. *A Romulo populus Romanus creatus fuisse dicitur, quia prius originalis populus non fuerit sed multitudo quaedam ex varijs gentibus & populis collecta. Romulus in has gentes collectitias, non nisi ex ipsarum consensu dominatus est.* The Scripture gives many instances of the right of government founded in consent or agreement: amongst others the case of Jephthah is cleer, *Judg. 11. 8, 11. The Elders of Gilead said unto Jephthah go with us and fight against th: Children of Ammon; and be our head over all the Inhabitants of Gilead, and the people made him head and Captaine over them.*

Again it is considerable, in what respect the change of a Government is believed to be unlawfull, whether it be:

1. Only in regard of the end; that those aime at, which do alter the government. And in this case I conceive, if there be nothing to vitiate the change but a bad end in the changers; this doth not make it unlawfull to be obeyed.

Or 2. In regard of the comparative badnesse of the Government brought in by change. As if instead of a well regulated monarchy, a more turbulent democrasie were brought in. In this case I conceive, if there be no exception against the change, but the bringing in of a lesse commendable government, this doth not make it unlawfull to obey it.

Or 3 in regard of the Commission that those have that do alter the Government. For, if they be not plenipotentiaries as to such an act of instituting a new government; that new fabrick will want authority which is the soul of government, & therefore I do not see how it may be obeyd.

As put case, in *Eutopia* the *Majestas* or supreme authority lies in 3. Estates, 1 Prince, Nobles, and Representers of the Communality in Senate assembled: if these by their joynt authority do make very considerable alterations in erecting or abolishing Courts, enlarging or restraining power of State-Officers. I make no question but in this case the *Eutopians* may as well without scruple comply with these acts, as with the other Statute. laws of that Kingdome; because these alterations are acts within the compasse of the supreme authority.

Again put case: these 3 Estates in *Eutopia* undertake to overthrow the Fundamentall government, and set up one of those 3 to be the supreme and instead of the whole fundamental government, if the question were put whether the inhabitants of *Eutopia* might obey that single estate as the sole supream, upon a Declaration or act of the 3. estates to that effect: this I conceive a very difficult case: and the clear stating of it will require a man well instructed in the history of the *Eutopian* Government, and well studied in that grand question in Politicks, *an jura Majestatis sint communicabilia?*

But put case, one of those 3. Estates in *Eutopia* will undertake to exclude the other 2, and to set up it self solely as supreme; and to Null laws made by all 3 estates: if one that is not able to comprehend how this act is within compasse of the commission of that one estate; doth thereupon beleve that change of Government not to be lawfull. If the Question be put, whether one so beleiving may obey that change, I must confesse I am not satisfied in the Affirmative, and my reason is this; Because if that change be not an act of authority it may not be obeyed, and that it is not an act of authority, seems to me rational upon obvious inferences from these grounds. *Par in parem non habet authoritatem. Totum aggregatum est maius qualibet sui parte. Eiusdem est leges abolere cujus est condere.* The English of all which may be



be summed up in this: a lesser authority hath no authority over a greater.

Again put case, that estate in Eutopia was under a force when it did decree that change of Government: by reason of which force many Members were kept away: and one that doth not question the ordinary power of that estate, doth yet beleve that the change being made by that Estate, under that disadvantage of force, is not lawfull. If the question be put, whether in this case, he that so beleeves the unlawfulness of that change, may, till he be otherwise informed, obey that change: I say as in the former case, I am not satisfied in the Affirmative. I shall illustrate this case by a supposition nearer home, there is in the fi ft leaf of the *Beis Memento*, the copy of an ordinance, where, in is exprest, That all Votes, Orders, Ordinances passed in either or both houses of Parliament, between the 26 of July and the 6 of August 1647. were null and voyd at the making thereof, the Parliament being under a force and not free. Now suppose that in this space of time there had passed, in either or both houses of Parliament, a decree for the change of Government: suppose further that one that truly honours the Parliament, and is of the same judgement with that Ordinance of the 20 of AUGUST 1647. and knew of the force mentioned therein; doth thereupon beleve that change of government to be unlawfull, if it be asked whether he, so beleaving, may lawfully obey that change of government, I would answer, no. And my reason is this; positive precepts do imply negative duty: I mean thus; that command that sayes *Honor thy Father and thy Mother*, doth as well forbid obeying that which is not authority, as command obeying that which is authority: now that change of Government (being (according to the supposition) decreed, the Parliament being under a force) hath nothing at all of authority in it: because the decree is null and voyd at the time of the making thereof.

Now Reader take the right state of the question along with you. the question is not concerning the forbearing of resistance, or concerning some kinde of occasionall compliance, but only concerning obedience which is a duty of the 5 Commandement. Nor is the question in general whether a change of Government may be obey'd, but whether it may be obeyed by one that beleeves the unlawfulness of the change, nor shall it be questioned for me, whether though a change of government were beleaved to be in some respect not lawfull, it may yet lawfully be obeyed, but that which I hold is this, that if the change



change of a government be beleev'd not to be lawfull ; for want of sufficient authority in that change, then he that so beleev's may not lawfully obay it. For this I could produce proofes ; But I wave them; and come now to consider, what the presbyterian proposer offers by way of prooffe.

And in the first place that Scripture *Rom. 13.* is alledged. Which Scripture if cleerely open'd, and rightly appl'd, would state the present and many other controversies. And here I grant that Scripture requires subjection both to authority, and to persons clothed with that authority. Neither doe I deny, but that Scripture proves subjection due to *Claudius* and *Nero* when they were invested in authority. But here the proposer queries the lawfulnessse of their coming to be invested in their authority, and sayes, that the Souldiers was the foundation of *Claudius's* and of *Nero's* empire : and here I grant that the Souldiery was the occasion or means by which they came to be Emperours: But I deny that they received authority from the souldiery; they received it from the people or Senat; and they had power to give it. I touch before the originall of the *Roman* Power. *Romulus* was the first King, and he raigned by consent of those who had power to give up their consent. This *Romulus* did institute as the great councill a Senate consisting of 100 men ; Which number afterwards encreased. The power of the Senate to confirme a supream Government, may be proved out of *Livius* and other authors. And that *Nero* had the consent of the Senate is cleere, by what the proposer p. 3. cites out of *Tacitus*, in these words. The Sentence of the Souldiers was followed with the consent of the Senate, and then it was not scrupled in the provinces. And that *Claudius* had also the consent of the Senate, may be gathered out of approved authors, and is not denied by the proposer. I say then that, though the Souldiers could not give them a legall title, yet the Senate both could and did. That an unlawfull means and a legall title may meet together, I shall illustrate by a similitude in an other kind. The Usurer lends a man 100 pound, and has his bond for the principal and 8 pound interest ; the borrower dyes, the Executor may pay that 8 pound above the principal: because though the Usurer hath not a morall right to that 8 l. by lending upon usury, yet he hath a legall title to it by the bond of the deceased. So he that by usurpation encroaches upon a Crowne ; if besides this, he gaines also a legall title ; may be obayed upon that legall title, though not upon the ground of Usurpation. To this purpose is that

*De jure Magistratum* p. 22. *vitium quod ab initio usurpationi inerat petiſt poſtea emendari: adeo ut qui ab initio tyrannus fuit, poſſit legitimus et inviolabilis magiſtratus officii, ſi videlicet poſtea liber et legitimus acceſſerit eorum conſenſus, qui verum et legitimum magiſtratum creare et conſtituere poſſunt.* The like answer to what I have given to that text Rom 13 doth Mr. Burroughs give to Dr. Ferne, his words are theſe p. 7. The apoſtle requires them not to reſiſt their power, their *ſervitia* he doth not charge them not to reſiſt their Tyranny. Certainly they could have no power but that which was given them by ſome agreement; if they challengd further it was no authority at all. And afterward p. 8. what they got and held meere by force without any conſent or agreement, was no power, no authority at all but might be reſiſted notwithstanding that prohibition.

From the Scripture argument the propoſer paſſes to hitoriſcall obſervations about the interruption of lineall ſucceſſion to the Crowne in England.

To which I might Answer that, *a ſalto ad jus non valet argumentum.* Whatſoever title others have had in former ages, if the title ſince be cleere, wee neede not trouble our ſelves with thoſe obſervations, which the propoſer ſayes, Learned men and ſtates-men have been ignorant of. I ſhall therefore here only cite ſome paſſages out of a parliamentary acknowledgment. Anno 1. Jacobi Regis. Your moſt humble and loyall Subjects, the Lords ſpirituall and temporall, and the Commons in this preſent Parliament aſſembled, in moſt humble and lowly manner doe beſeech your moſt Excellent Maſteſty, that (as a memoriall to all poſterities, amongſt the records of your high court of Parliament for ever to endure, of our loyalty, obedience, and hearty humble affection) it may be publiſhed and declared in this high court of Parliament, and enacted by authority of the ſame, that wee (being bounden thereunto both by the lawes of God and Man) doe recognize and acknowledge, that immediately upon the diſſolution and deceaſe of Elizabeth late Queene of England, the imperiall Crown of the realme of England, and of all the Kingdomes, Dominions, and rights belonging to the ſame, did by inherent birthright and lawfull and undoubted ſucceſſion, deſcend and come to your moſt Excellent Maſteſty, as being lineally, juſtly, and lawfully, next and ſole heir of the blood royall of this realme, as is aforeſaid, and that by the goodneſſe of God almighty and lawfull right of deſcent, under one imperiall Crowne, your Maſteſty is of the Kingdomes of England &c. King ——— And thereunto

thereunto we most humbly and faithfully do submit, and oblige our selves our heirs, and posterities for ever, untill the last drop of our bloods be spent. And doe beseech your Majesty to accept the same, as the first fruits in this high court of Parliament, of our loyalty and faith to your Majesty, and your Royal Progeny, and Posterity for ever.

The Proposer likewise cites the judgement of a few divines and ca-  
suits for obeying the commands of an Usurper. And I beleve those  
that abound with books may meet with far more of the contrary  
judgement. But because our faith must not stand in the wisdom of  
men; and we are upon a case of conscience, wherein the opinions of  
men are of small weight; I judge it superfluous to multiply Authors:  
take therefore only 2. for a test, Mr. Burroughs answer to Dr. Ferne.  
p. 7. there is no body here that yet hath attempted to take any power  
away from the King that law hath given him. Howsoever the point  
of inheritance or conquest can not hinder; for first, none inherits  
but that which his Progenitors had, and his Progenitors had no more  
originally then by consent was given them; therefore the difference  
between Kings by Inheritance, and Kings by election, in this case is not  
much. And for conquest, that only settles former right, or makes  
way to some farther agreement, to adde to what was former; the  
right comes not from power to conquer, or act of conquering, but  
from some agreement, precedent, or consequent. *de jure Magistratu-  
um* p. 27. *is qui alienos invadit nullo modo sibi subditos, et si cupiat  
juste et ex bono et equo dominari (sicut de Pisistrato et Demetrio Pha-  
larao apud Athenienses legimus) potest tamen jure impediri, etiam ar-  
mata manu, et a quibusvis vel infima sortis, quibus vim inferre volu-  
erit, quam nullo jure illi obstringantur.*

From the alledging of Authors the Proposer comes again to argu-  
ing, and urging the former Scrip. ure, tells us, it speaks not of obeying  
those that shall be powers, but the powers that are, and those that are  
in authority.

I grant it is spoken of the present powers: but who are those?  
surely those which are constituted powers, not those which are preten-  
ders to power. Whatsoever force rises up to hinder the Parliament,  
yet the Parliament is a power in being, because it has a legall being. To  
this purpose is that which we read in Mr. Burroughs book, intituled  
*The glorious Name of God the Lord of Hosts*, which book was printed  
by order from a Committee of the House of Commons. In that book

p. 47 he tels us, the Kingdome hath a Parliament in being, untill both Houses have agreed to dissolve it. And in his answer to Doctor *Ferne* p. 3 He places the Emphasis upon the word power; for thus he writes; We distinguish between the man that hath the power, and the power of that man, and say although the power must not be resisted according to the letter and sence of the Text, yet the illegal will and wayes of the Man, may be resisted without the least offending against the Text.

To what the proposer demands concerning the covenant, I will on-ly tell you what is lately publisht by Mr. *Canne* a great patron of the late proceedings, in his booke against the Covenant p. 7. his words are these. It is not possible that ever this Common wealth should be settled according to what the Parliament hath lately declared, and the Covenant duly observed; so incompatible is the one with the other.

To the proposers passage concerning heirs and successors in the Oath of allegiance. I say (with submission to better information) whereas the office of a King may outlive the race of a King, there are therefore mentioned not only heirs but successours; that in case heirs faile, yet Kingship might not dy, and therefore heirs is set first, and successours after. But of this enough, and it may be also this may seeme superfluous; for if the proposed alteration goe on, it will exclude both heirs and successours.

To the last Quere of the proposer (if I understand the meaning of it) there may be a sufficient answer pickt out of the last passage which I cited out of Mr. *Burroughs*.

I shall therefore here conclude with the counsell of the most wise God, given by the wisest of Men. prov. 24. 21. 22. *My Son, feare thou the Lord, and the King: and meddle not with them that are given to change. For their calamity shall rise suddenly, and who knoweth the ruine of them both.*